SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): October 23, 2017


C. PROJECT LOCATION AND BACKGROUND INFORMATION:

<table>
<thead>
<tr>
<th>State: MN</th>
<th>County/parish/borough: Scott</th>
<th>City: Elko New Market</th>
</tr>
</thead>
<tbody>
<tr>
<td>Center coordinates of site (lat/long in degree decimal format): Lat. 44.54954° N, Long. -93.32668° W</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Universal Transverse Mercator: 15</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Name of nearest waterbody: Porter Creek</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Name of watershed or Hydrologic Unit Code (HUC): 07020012</td>
<td></td>
<td></td>
</tr>
<tr>
<td>☒ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc…) are associated with this action and are recorded on a different JD form.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

- ☒ Office (Desk) Determination. Date: 27 July 2017
- ☐ Field Determination. Date(s): 2 May 2017

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There are no “navigable waters of the U.S.” within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There are no “waters of the U.S.” within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area.

1. Waters of the U.S.: N/A

2. Non-regulated waters/wetlands (check if applicable): ☒

   Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: There are multiple wetlands in the review area, however, this determination is only for the wetland labeled as Wetland F on the enclosed figure labeled MVP-2017-01109-JTB, Figure 4. Wetland F is a farmed depressional basin that does not have a surface or shallow subsurface hydrologic connection to any navigable waters or their tributaries, as confirmed in the Boulder Heights Wetland Delineation Report and revised figure submitted on July 14, 2017. The wetland is surrounded by upland, and has no swales, pipes or other means to connect it to waters of the U.S. (WOUS). Wetland F is not identified as wetlands on the National Wetland Inventory (NWI). The wetland does extend out of the review area but we have determined that this wetland is an isolated depression and is not WOUS. Wetland F does not support a link to interstate or foreign commerce because it is not known to be used by interstate or foreign travelers for recreation or other purposes; does not produce fish or shellfish that could be taken and sold in interstate or foreign commerce; and is not known to be used for industrial purposes by industries in interstate or foreign commerce. This wetland does not have an ecological connection to other waters within the review area. Wetland F was determined to not be jurisdictional under the CWA.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs: N/A

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY): N/A

C. SIGNIFICANT NEXUS DETERMINATION: N/A

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1 Supporting documentation is presented in Section III.F.
D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY): N/A

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY): N/A

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

- [ ] If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- [ ] Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
- [ ] Prior to the Jan 2001 Supreme Court decision in “SWANCC,” the review area would have been regulated based solely on the “Migratory Bird Rule” (MBR).
- [ ] Waters do not meet the “Significant Nexus” standard, where such a finding is required for jurisdiction. Explain:
  - [ ] Other (explain, if not covered above):

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- [ ] Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- [ ] Lakes/ponds: acres.
- [ ] Other non-wetland waters: acres. List type of aquatic resource:
- [ ] Wetlands: Wetland F - 0.138 acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the “Significant Nexus” standard, where such a finding is required for jurisdiction (check all that apply):

- [ ] Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- [ ] Lakes/ponds: acres.
- [ ] Other non-wetland waters: acres. List type of aquatic resource:
- [ ] Wetlands: acres.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply) - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

- [ ] Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: KES
- [ ] Data sheets prepared/submitted by or on behalf of the applicant/consultant.
- [ ] Office concurs with data sheets/delineation report.
- [ ] Office does not concur with data sheets/delineation report.
- [ ] Data sheets prepared by the Corps:
- [ ] Corps navigable waters’ study:
- [ ] U.S. Geological Survey Hydrologic Atlas:
  - [ ] USGS NHD data.
  - [ ] USGS 8 and 12 digit HUC maps.
- [ ] U.S. Geological Survey map(s). Cite scale & quad name: MN-1:24k-NEW MARKET
- [ ] USDA Natural Resources Conservation Service Soil Survey. Citation: Scott County Soil Survey
- [ ] National wetlands inventory map(s). Cite name: USFWS NWI & MnDNR NWI
- [ ] State/Local wetland inventory map(s):
- [ ] FEMA/FIRM maps:
- [ ] 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
- [ ] Photographs: [ ] Aerial (Name & Date): FSA 1991-2015
  - [ ] Other (Name & Date): Google Earth
- [ ] Previous determination(s). File no. and date of response letter:
- [ ] Applicable/supporting case law:
- [ ] Applicable/supporting scientific literature:
- [ ] Other information (please specify):

B. ADDITIONAL COMMENTS TO SUPPORT JD: Based on a field review and the wetland delineation report completed for the Boulder Heights Development, Wetland F is an isolated wetland and is therefore not jurisdictional and not regulated under Section 404 of the Clean Water Act.
Figure 1 - Site Location

Bouler Heights Phases 1 and 2 (KES 2017-060)
City of Elko New Market, Minnesota

Note: Boundaries indicated on this figure are approximate and do not constitute an official survey product.
Figure 2 - Existing Conditions

Boulder Heights Phases 1 and 2 (KES 2017-060)
City of Elko New Market, Minnesota

Note: Boundaries indicated on this figure are approximate and do not constitute an official survey product.
Figure 3 - Proposed Site Plan

Boulder Heights Phases 1 and 2 (KES 2017-060)
City of Elko New Market, Minnesota

Note: Boundaries indicated on this figure are approximate and do not constitute an official survey product.
Figure 5 - Wetland Avoidance Design

Boulder Heights Phases 1 and 2 (KES 2017-060)
City of Elko New Market, Minnesota

Note: Boundaries indicated on this figure are approximate and do not constitute an official survey product.